

**FEDERAL COURT**

**BETWEEN:                    ~~UNITED AIR LINES~~ AIRLINES, INC. and**  
**~~— CONTINENTAL AIRLINES, INC.~~**

**Plaintiffs**  
**Plaintiff**

**AND**

**JEREMY COOPERSTOCK**

**Defendant**

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**AMENDED STATEMENT OF CLAIM**

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TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the *Federal Courts Rules*, serve it on the Plaintiff's<sup>2</sup> solicitor or, where the Plaintiffs does not have a solicitor, serve it on the Plaintiffs, and file it, with proof of service, at a local office of this Court, **WITHIN 30 DAYS** after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: November 19, 2012  
Amended April    •    , 2013

Issued by:

\_\_\_\_\_  
(Registry Officer)  
30 McGill Street  
Montreal, Quebec  
H2Y 3Z7

To: PROFESSOR JEREMY COOPERSTOCK  
392 Grosvenor Street  
Westmount  
Quebec  
H3Z 2M2

The Plaintiff, United Airlines, Inc. claims: ~~Plaintiffs, United Air Lines, Inc. (hereinafter called "United") and Continental Airlines Inc. (hereinafter called "Continental") (United and Continental hereinafter collectively called the "Plaintiffs")~~ claim,

- (a) a declaration that ~~Continental~~ the Plaintiff is the owner of the copyright in Canada in the graphic design elements, including layout, incorporated in the website corresponding with the internet domain name www.united.com (these graphic design elements and layout are hereinafter collectively called the "United Website");

- (b) a declaration that the ~~Plaintiffs are~~ Plaintiff is the ~~owners~~ owner of the copyright in Canada in the logo: **UNITED**

(hereinafter called the "United Logo");

- (c) a declaration that ~~Continental~~ the Plaintiff is the owner of the copyright in Canada in the logo:



(hereinafter called the "Globe Design");

- (d) a declaration that ~~United~~ the Plaintiff is the owner of the Canadian registered trade-marks UNITED, GLOBE DESIGN and UNITED AIRLINES bearing trade-mark registration nos. TMA204,456, TMA492,886 and TMA367,179, respectively (collectively hereinafter called the "United Trade-marks"); (e) ~~a declaration that Continental is the owner of the Canadian registered trade mark GLOBE DESIGN bearing trade mark registration no. TMA492,886 (this trade mark and the United Trade marks hereinafter collectively called the "Plaintiffs' Plaintiff's Trade-marks")~~;

- (f) a declaration that the Defendant, Professor Jeremy Cooperstock (hereinafter called the "Defendant"), has:
- (i) infringed the ~~Plaintiffs'~~ Plaintiff's copyrights in the United Website, in the United Logo and in the Globe Design;
  - (ii) directed public attention to his wares, services, and business in such a way as to cause or be likely to cause confusion in Canada between them and the wares, services and business of the ~~Plaintiffs~~ Plaintiff;
  - (iii) infringed the ~~Plaintiffs'~~ Plaintiff's rights in the ~~Plaintiffs'~~ Plaintiff's Trade-marks;
  - (iv) used the ~~Plaintiffs'~~ Plaintiff's Trade-marks in a manner that is likely to have the effect of depreciating the value of the goodwill attaching thereto; and
  - (v) caused confusion to the public and ongoing damage to the ~~Plaintiffs~~ Plaintiff, including depreciation of the ~~Plaintiffs'~~ Plaintiff's goodwill in the ~~Plaintiffs'~~ Plaintiff's Trade-marks;
- (g) an interim, interlocutory and permanent injunction restraining the Defendant from, either directly or indirectly, further infringing the ~~Plaintiffs'~~ Plaintiff's said copyrights and from further directing public attention to his wares, services and business in a confusing manner as set out above, and, in particular, from using or displaying, on the internet or in any other way, the ~~Plaintiffs'~~ Plaintiff's Trade-marks or any symbols, logos, words or indicia which cause or are likely to cause confusion with any of the ~~Plaintiffs'~~ Plaintiff's Trade-marks;
- (h) damages, profits and statutory damages, or whichever one or more of those that the ~~Plaintiffs~~ Plaintiff may elect after due inquiry; and
- (i) such further and other relief as to this Honourable Court shall seem just.

The ~~Plaintiffs are~~ Plaintiff is not seeking to prevent the Defendant from operating a website where individuals can express their views about ~~Plaintiffs~~ the Plaintiff. Rather, ~~Plaintiffs are~~ the Plaintiff is requesting the relief above in order to protect ~~their~~ its intellectual property rights and prevent consumer confusion over whether ~~Plaintiffs own~~

the Plaintiff owns and/or ~~sponsor~~ sponsors Defendant's UNTIED.com website. As set out in paragraphs 19, 21, and 23 below, ~~Plaintiffs~~ the Plaintiff approached Defendant on multiple occasions with a request that Defendant modify his website so that it is not confusingly similar to the United Website. The Defendant refused to do so. Accordingly, ~~United~~ the Plaintiff is left with no reasonable option but seek relief from this Court.

### **The Parties**

1. Plaintiff, ~~United Air Lines~~ Airlines, Inc., is a corporation incorporated and existing under the laws of the State of Delaware, one of the United States of America, having a principal place of business at ~~77 West~~ 233 South Wacker Dr., Chicago, Illinois ~~60601~~ 60606, U.S.A.
2. The Plaintiff; is the result of the merger of United Air Lines, Inc. ("United") and Continental Airlines, Inc., is a corporation incorporated and existing under the laws of the State of Delaware, one of the United States of America, having a principal place of business at 77 West Wacker Dr., Chicago, Illinois 60601, U.S.A. ("Continental"), which merger took effect on March 31, 2013.
3. ~~The Plaintiffs operate~~ Prior to the March 31, 2013 merger, United and Continental had operated commercial flights under a single operating certificate and ~~market~~ marketed such flights as "United".
4. For over eighty years, ~~United~~ the Plaintiff, together with its successors in interest, has been one of the largest commercial airline operators and transportation service providers in the world. Indeed, ~~United~~ the Plaintiff (together with United Express) operates an average of 5,557 flights a day to 378 airports on six continents. The Plaintiff ~~United~~ was rated the world's most admired airline on FORTUNE magazine's 2012 airline-industry list of the World's Most Admired Companies. In addition, readers of Global Traveler magazine have voted ~~United's~~ the Plaintiff's MileagePlus program the best frequent flyer program for eight consecutive years.

5. ~~The Plaintiff United~~ and its predecessors in interest have been offering airline related services in Canada for over 70 years. In 2011, ~~United the Plaintiff~~ operated more than 2 million flights and carried approximately 142 million passengers to destinations around the world. ~~United the Plaintiff~~ employs more than 85,000 people worldwide.
6. The Defendant is an individual having an office at McGill University, McConnell Engineering Building, Rm. 424, 3480 University Street, Montreal, Quebec, H3A 0E9, and residing at 392 Grosvenor Street, Westmount, Quebec, H3Z 2M2.
7. The Defendant owns and operates a website corresponding with the internet domain name [www.untied.com](http://www.untied.com) (this website hereinafter called "UNTIED.com"). Defendant registered this domain name on April 24, 1997. The Defendant began operating said website on the following day.

#### **The United Copyright Works**

8. ~~Plaintiffs are~~ The Plaintiff is the owners owner of all rights, including copyright, in the United Website the United Logo, and the Globe Design.
9. ~~Plaintiffs~~ The Plaintiff's predecessors in title have obtained copyright registrations in Canada under the numbers 1099767, 1099766 and 1099765 for the United Website, the United Logo and the Globe Design, respectively. Appended as Schedule "A" to form an integral part of the present action is a copy of each registration.
10. The United Website was first published in Canada when it was launched in its current form on or about March 3, 2012. This launch was the result of a significant redesign of the previous version of the website [www.united.com](http://www.united.com) and is based upon the version of the website that existed at [www.continental.com](http://www.continental.com).

#### **The United Trade-marks**

11. ~~Plaintiffs~~ The Plaintiff and ~~their~~ its predecessors in interest have used the trade-marks UNITED and UNITED AIRLINES in Canada in association with, inter

alia, air transportation of passengers since at least as early as 1939. These two trade-marks have been registered with the Canadian Trade-marks Office under registration nos. TMA204,456 and TMA367,179, respectively.

12. ~~Plaintiffs~~ The Plaintiff and ~~their~~ its predecessors in interest have used the trade-mark GLOBE DESIGN in Canada in association with, inter alia, airline transportation services for passengers since at least as early as June 22, 1995. More specifically, ~~Plaintiff~~ Continental previously used the trade-mark GLOBE DESIGN in association with Continental-branded flights; ~~it~~ the Plaintiff now uses this trade-mark in association with United-branded flights. This trade-mark has been registered with the Canadian Trade-marks Office under registration no. TMA492,886. Appended as Schedule "B" to form integral part of the present action are copies of the ~~Plaintiffs'~~ Plaintiff's Trade-mark registrations 204,456, 367,179 and 492,886.
13. The ~~Plaintiffs~~ Plaintiff and ~~their~~ its predecessors in ~~title have~~ interest have used the ~~Plaintiffs'~~ Plaintiff's Trade-marks extensively in Canada, and the ~~Plaintiffs have~~ Plaintiff has established a very valuable reputation and goodwill in association with the ~~Plaintiffs'~~ Plaintiff's Trade-marks.
14. To enable ~~their~~ its customers, and the general public, to readily associate the United Website with ~~United~~ the Plaintiff, the ~~Plaintiffs~~ Plaintiff prominently display the ~~Plaintiffs'~~ Plaintiff's Trade-marks on the United Website.

#### **The Defendant's Acts**

15. At some time between March 3, 2012 and April 9, 2012, the Defendant caused UNTIED.com to be redesigned. The newly designed UNTIED.com site very closely resembles the recently redesigned United Website. Amongst other things, the colour scheme, font, general website layout, and prominent placement of the logo , which is confusingly similar with the United Logo and the Globe Design, are all nearly exactly the same on both the United Website and the new version of UNTIED.com. All of the ~~Plaintiffs'~~ Plaintiff's Trade-marks, and/or indicia

confusingly similar therewith, appear on the redesigned version of UNTIED.com. This results in UNTIED.com having an overall appearance which very closely resembles and is difficult to distinguish from that of the United Website.

16. UNTIED.com allows visitors to the site to submit complaints. For at least one visitor, the Defendant assigned an Untied.com complaint number to the visitor's complaint and instructed the visitor to use the complaint number in correspondence with United the Plaintiff. However, since United the Plaintiff does not operate UNTIED.com, it did not receive this visitor's complaint and did not assign a complaint number to the visitor. As a result, the visitor subsequently contacted United the Plaintiff, noted that he had registered an online complaint via UNTIED.com, but he had not received a response from United the Plaintiff. This example is one of many situations where customers have evidenced confusion between the United Website and UNTIED.com.
17. A link on the UNTIED.com website, which link was removed following the filing of the Plaintiff's November 19, 2012 Statement of Claim, also served to divert ~~diverts~~ users to the commercial website [www.inweddingdress.com](http://www.inweddingdress.com), which advertises and sells wedding dresses and related clothing and accessories. Additionally, the June 15, 2012 version of the UNTIED.com website was also linked to the commercial website [www.uspassportnow.com](http://www.uspassportnow.com), an online passport agency. A further link on UNTIED.com directs visitors to a page which offers users the opportunity to send money to the Defendant, either electronically, either electronically ~~to the account corresponding with the Defendant's personal university email address,~~ or by cheque. At the time of filing of the Plaintiff's November 19, 2012 Statement of Claim, the Defendant had encouraged users to send money electronically to an account corresponding with the Defendant's personal university email address, which address has since been removed. Defendant expressly states on his website that donations "serve primarily as a means of encouragement."



18. During or about April of 2012, ~~Plaintiffs~~ the Plaintiff became aware of the strong resemblance between its recently launched United Website and the then-recently redesigned UNTIED.com.
19. On July 16, 2012, ~~United~~ the Plaintiff contacted the Defendant to request, among other things, that the appearance of UNTIED.com be altered so as to alleviate the possibility of confusion between UNTIED.com and the United Website.
20. On July 17, 2012, the Defendant acknowledged receipt of ~~United's~~ the Plaintiff's request, and stated that he would "study" ~~United's~~ the Plaintiff's concerns. At that time, and instead of addressing the specific requests made by ~~United~~ the Plaintiff, the Defendant also offered his services to ~~United~~ the Plaintiff "on a consultancy basis."
21. On September 10, 2012, ~~United~~ the Plaintiff again contacted the Defendant to reiterate its earlier request that the Defendant alter the appearance of UNTIED.com, and to formally put the Defendant on notice of ~~United-the~~ Plaintiff's rights. Appended as Schedule "C" is a copy of the September 10, 2012 letter. Specifically, ~~United~~ the Plaintiff stated:

Given the use of United Airlines' trade dress and its copyrighted and trademarked materials, and the intermingling of the untied.com and united.com websites caused by your linking to web pages within the united.com site, it is not surprising that we have received several reports of individuals who have accessed and used your untied.com website, believing that they were on a website owned and/or sponsored by United Airlines. Such individuals have submitted statements or complaints through your website, believing they were being submitted directly to United Airlines. As a result of the confusion caused by your website, the communications from these customers to United Airlines have been delayed, or sometimes even lost. In addition, the amount of time between when these customers thought they were communicating with United Airlines and the time when they actually began communicating with United Airlines has been delayed to their detriment.

22. On September 25, 2012, the Defendant responded to ~~United~~ the Plaintiff's September 10, 2012 letter but did not address ~~United~~ the Plaintiff's request that the Defendant alter the appearance of UNTIED.com.
23. On October 2, 2012, ~~United~~ the Plaintiff once again contacted the Defendant to reiterate its earlier request that the Defendant alter the appearance of UNTIED.com. Appended as Schedule "D" is a copy of the October 2, 2012 letter. Specifically, ~~United~~ the Plaintiff stated:
- [T]he design of your untied.com site closely mimics the design of United Airlines' united.com website down to color, font, and location of active links. United Airlines' customers have experienced a great deal of confusion due to the very similar look and feel of your untied.com site and United Airlines' united.com site. Additionally, communications submitted by United Airlines' customers via untied.com are sometimes lost or not directed through the appropriate channels, thus impeding the communication flow between United Airlines and its customers. As a result, we remain concerned about your use of United Airlines' trade dress and copyrighted and trademarked materials on your site.
24. On October 12, 2012, the Defendant responded to ~~United's~~ the Plaintiff's October 2, 2012 letter but once again did not address ~~United's~~ the Plaintiff's request that the Defendant alter the appearance of UNTIED.com.
25. To date, the Defendant has not altered the overall visual appearance of UNTIED.com, or removed any of the indicia which are confusing with or identical to ~~Plaintiffs'~~ the Plaintiff's Trade-marks and the United Logo and Globe Design.
26. The Defendant's aforesaid acts were performed without the ~~Plaintiffs'~~ Plaintiff's authorization, consent, license, or acquiescence to same.

**Copyright Infringement**

27. By the actions set out in paragraphs 15 to 26, the Defendant has infringed the ~~Plaintiffs'~~ Plaintiff's copyrights in the United Website and the United Logo and Globe Design.
28. The Defendant, by reason of his aforesaid activities, has infringed the copyright in the works owned by the ~~Plaintiffs~~ Plaintiff in that he has produced or reproduced, caused to be produced or reproduced, or authorized the production, reproduction or adaptation of the ~~Plaintiffs'~~ Plaintiff's protected works, or a substantial part thereof, contrary to section 3 and 27 of the *Copyright Act*.

#### **Trade-mark Infringement and Passing Off**

29. The Defendant, by reason of his aforesaid activities, has infringed the ~~Plaintiffs'~~ Plaintiff's rights in the ~~Plaintiffs'~~ Plaintiff's Trade-marks, in a manner that has had, or is likely to have, the effect of depreciating the value of the goodwill attaching to the ~~Plaintiffs'~~ Plaintiff's Trade-marks, the whole contrary to sections 19, 20(1) and 22(1) of the *Trade-marks Act*. Also by these actions, the Defendant has directed public attention to his wares, services or business in such a way as to have caused, or to be likely to cause, confusion in Canada between his wares, services or business and the wares, services or business of the ~~Plaintiffs~~ Plaintiff, the whole contrary to section 7(b) of the *Trade-marks Act*.
30. The Defendant is likely to continue the aforesaid illegal and infringing acts, the whole to the prejudice of the ~~Plaintiffs~~ Plaintiff and the public, as aforesaid, unless restrained by Order of this Honourable Court.
31. By reason of the Defendant's aforesaid activities, the ~~Plaintiffs have~~ Plaintiff has suffered and ~~continue~~ continues to suffer considerable damages whereas the Defendant has made and continues to make illegal profits.
32. The present action is well founded in fact and law.

The ~~Plaintiffs propose~~ Plaintiff proposes that this action be tried in Montreal.

Montreal, this 19<sup>th</sup> day of November, 2012.

Amended April • , 2013

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Gowling Lafleur Henderson LLP  
Solicitors for the ~~Plaintiffs~~ Plaintiff  
1 Place Ville Marie, 37<sup>th</sup> Floor  
Montreal, Québec, Canada, H3B 3P4

Me Hélène D'Iorio  
Tel.: (514) 392-9564  
Fax: (514) 878-1450

Me Lee A. Johnson  
Tel.: (514) 392-9502  
Fax: (514) 876-9502

**Schedule "A"**



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*Certificate of Registration of*

# *Copyright*

*Certificat d'enregistrement du*

# *Droit d'auteur*

*This Certificate of Registration is issued pursuant to sections 49 and 53 of the Copyright Act. The copyright in the work described below was registered on the date of registration as follows:*

*Ce certificat d'enregistrement est émis conformément aux articles 49 et 53 de la Loi sur le droit d'auteur. Le droit d'auteur sur l'oeuvre décrite ci-dessous, a été enregistré à la date d'enregistrement comme suit :*

*Date of Registration - Date d'enregistrement :*

**October 29, 2012**

*Registration No. - Numéro d'enregistrement*

**1099765**

*First Publication - Première publication :*

**February 1, 1991**

**Houston, Texas, United States of America**

*Title - Titre :*

**Globe design**

*Category - Catégorie :*

**Artistic**

*Owner(s) - Titulaire(s) :*

**Continental Airlines, Inc.  
1600 Smith Street  
Houston, Texas  
United States of America, 77002**

*Author(s) - Auteur(s) :*

**Steven Gilliat**

**Roger van den Bergh**

**Connie Birdsall**

**Canada**

(CIPO 00200)  
03-11

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*Date of Issuance of Certificate - Date d'émission du certificat :*

**October 29, 2012**

Registrar of Copyright  
Copyright office

Registraire des droits d'auteur  
Bureau du droit d'auteur



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*Certificate of Registration of  
Copyright*

*Certificat d'enregistrement du  
Droit d'auteur*

*This Certificate of Registration is issued pursuant to sections 49 and 53 of the Copyright Act. The copyright in the work described below was registered on the date of registration as follows:*

*Ce certificat d'enregistrement est émis conformément aux articles 49 et 53 de la Loi sur le droit d'auteur. Le droit d'auteur sur l'oeuvre décrite ci-dessous, a été enregistré à la date d'enregistrement comme suit.*

*Date of Registration - Date d'enregistrement :* **October 29, 2012**

*Registration No. - Numéro d'enregistrement :* **1099766**

*First Publication - Première publication :* **August 11, 2010  
Houston, Texas, United States of America**

*Title - Titre :* **United logotype**

*Category - Catégorie :* **Artistic**

*Owner(s) - Titulaire(s) :* **United Air Lines, Inc.  
77 W. Wacker Drive  
Chicago, Illinois  
United States of America, 60601**

**Continental Airlines, Inc.  
1600 Smith Street  
Houston, Texas  
United States of America, 77002**

*Author(s) - Auteur(s) :* **Su Mathews**

**Connie Birdsall**





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*Date of Issuance of Certificate - Date d'émission du certificat :*

**October 29, 2012**

Registrar of Copyright  
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*Certificat d'enregistrement du*  
**Droit d'auteur**

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*Ce certificat d'enregistrement est émis conformément aux articles 49 et 53 de la Loi sur le droit d'auteur. Le droit d'auteur sur l'oeuvre décrite ci-dessous, a été enregistré à la date d'enregistrement comme suit :*

**Date of Registration - Date d'enregistrement :** **October 29, 2012**

**Registration No. - Numéro d'enregistrement :** **1099767**

**First Publication - Première publication :** **July 29, 2006**  
**Houston, Texas, United States of America**

**Title - Titre :** **INTERNET WEBSITE CONTENT  
INCLUDING, WITHOUT LIMITATION:  
(TEXT, IMAGES, DESIGNS, LAYOUT,  
FONT COLOUR SELECTION) AT  
DOMAIN : WWW.united.com**

**Category - Catégorie :** **Artistic**

**Owner(s) - Titulaire(s) :** **Continental Airlines, Inc.  
1600 Smith Street  
Houston, Texas  
United States of America, 77002**

**Author(s) - Auteur(s) :** **Michael Van Auken  
Kathryn Van Auken  
Aaron Hynes  
Nora Bush**



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**Michelle Bottomley**

*Date of Issuance of Certificate - Date d'émission du certificat :*

**October 29, 2012**

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Registraire des droits d'auteur  
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**Schedule "B"**



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*Marques de commerce*  
*Certificat d'authenticité*

Le(la) soussigné(e) certifie par la présente que le document ci-joint est une copie authentique de l'enregistrement officiel de la marque de commerce effectué sous le numéro TMA 204,456 conformément à la Loi sur les marques de commerce.

Conformément aux dispositions de la *Loi sur les marques de commerce*, la présente marque de commerce est enregistrée pour 15 années à compter de la date d'enregistrement ou de la dernière date de renouvellement indiquée dans le document ci-joint, qui contient tous les renseignements sur l'enregistrement.

*Trade-marks*  
*Certificate of Authenticity*

The undersigned hereby certifies that the attached document is a true copy of the record of the registration of the trade-mark registered under No. TMA 204,456 in accordance with the Trade-marks Act.

In accordance with the provisions of the *Trade-marks Act*, this trade-mark is registered for 15 years from the registration date or the latest renewal date shown on the attached particulars of registration.

UNITED

  
Agent certificateur / Certifying Officer

29 oct/Oct 2012

Date

Canada

(CIPO 00200)  
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## *Marques de commerce*

### *Certificat d'authenticité*

Le(la) soussigné(e) certifie par la présente que le document ci-joint est une copie authentique de l'enregistrement officiel de la marque de commerce effectué sous le numéro TMA 367,179 conformément à la Loi sur les marques de commerce.

Conformément aux dispositions de la *Loi sur les marques de commerce*, la présente marque de commerce est enregistrée pour 15 années à compter de la date d'enregistrement ou de la dernière date de renouvellement indiquée dans le document ci-joint, qui contient tous les renseignements sur l'enregistrement.

## *Trade-marks*

### *Certificate of Authenticity*

The undersigned hereby certifies that the attached document is a true copy of the record of the registration of the trade-mark registered under No. TMA 367,179 in accordance with the Trade-marks Act.

In accordance with the provisions of the *Trade-marks Act*, this trade-mark is registered for 15 years from the registration date or the latest renewal date shown on the attached particulars of registration.

**UNITED AIRLINES**

  
Agent certificateur / Certifying Officer

29 oct/Oct 2012

Date

(CIPO 00200)  
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*Certificat d'authenticité*

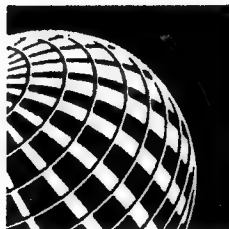
Le(la) soussigné(e) certifie par la présente que le document ci-joint est une copie authentique de l'enregistrement officiel de la marque de commerce effectué sous le numéro TMA 492,886 conformément à la Loi sur les marques de commerce.

Conformément aux dispositions de la *Loi sur les marques de commerce*, la présente marque de commerce est enregistrée pour 15 années à compter de la date d'enregistrement ou de la dernière date de renouvellement indiquée dans le document ci-joint, qui contient tous les renseignements sur l'enregistrement.

*Trade-marks*  
*Certificate of Authenticity*

The undersigned hereby certifies that the attached document is a true copy of the record of the registration of the trade-mark registered under No. TMA 492,886 in accordance with the Trade-marks Act.

In accordance with the provisions of the *Trade-marks Act*, this trade-mark is registered for 15 years from the registration date or the latest renewal date shown on the attached particulars of registration.



  
Agent certificateur / Certifying Officer

29 oct/Oct 2012

Date

Canada

(CIP0 00200)  
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**Schedule "C"**



# UNITED



Michael C. Henning  
Managing Counsel - Litigation & Intellectual Property  
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15th Floor HQSLG  
1600 Smith Street  
Houston, Texas 77002  
[united.com](http://united.com)

September 10, 2012

**VIA E-MAIL**

*Without Prejudice*

Jeremy Cooperstock  
McGill University  
McConnell Engineering Building, Rm 424  
3480 rue University  
Montreal H3A 0E9 Quebec  
CANADA  
[jcooperstock@gmail.com](mailto:jcooperstock@gmail.com)

Re: [untied.com](http://untied.com)

Dear Professor Cooperstock:

I write as a follow up to our earlier communications. As you know, I am one of United Airlines' in-house attorneys. The purpose of this letter is to continue our discussion about two issues that exist with respect to your [untied.com](http://untied.com) website in hopes of getting them resolved.

To be clear, United Airlines is in no way suggesting by this letter that you may not criticize United Airlines and maintain a website on which such criticisms are collected and posted. While United Airlines certainly believes that there are far more productive ways to address the concerns raised on your website, the purpose of this letter is not to ask you to take down the [untied.com](http://untied.com) site. Rather, it is to see if we can reach an agreement to resolve two specific problems that your website has created for United Airlines' customers and its employees.

The first issue concerns the actual confusion and likelihood of confusion that results from the current layout and appearance of the web pages presented by the [untied.com](http://untied.com) website. As I am sure you know, the overall look and feel of the website you established at [untied.com](http://untied.com) mimics the United Airlines website at the [united.com](http://united.com) site down to color, font, and location of active links. The [untied.com](http://untied.com) website is also intermingled with the [united.com](http://united.com) website in that pages provided by the [untied.com](http://untied.com) site include links that take one directly to pages on the [united.com](http://united.com) website.

Given the use of United Airlines' trade dress and its copyrighted and trademarked materials, and the intermingling of the [untied.com](http://untied.com) and [united.com](http://united.com) websites caused by your linking to web pages within the [united.com](http://united.com) site, it is not surprising that we have received several reports of individuals who have accessed and used your [untied.com](http://untied.com) website, believing that they

were on a website owned and/or sponsored by United Airlines. Such individuals have submitted statements or complaints through your website, believing they were being submitted directly to United Airlines. As a result of the confusion caused by your website, the communications from these customers to United Airlines has been delayed, or sometimes even lost. In addition, the amount of time between when these customers thought they were communicating with United Airlines and the time when they actually began communicating with United Airlines has been delayed to their detriment.

The second and particularly troubling issue concerns your posting – on a page on the untied.com website under the tagline “Contact UAL” – of names, office and e-mail addresses, and phone numbers of various specific United Airlines employees who have no connection to any issue discussed on your website. As a result of your postings, the individuals listed on your website have received an inordinately large number of e-mails and phone calls, many of an extremely disturbing nature. Not only are these e-mails and calls extremely disruptive, they have caused – and are causing – tremendous emotional strain and stress for these individuals. While we understand that you are a critic of United Airlines, we are sure that facilitating the harassment of individual employees simply trying to do their jobs is not your intent, and that you will have no issues with removing their names and contact information. There is simply no legitimate reason to subject them to the burdens and stress that listing their names on your website has imposed on them.

To give you an idea of the type of issues that the untied.com listings have caused, I have reproduced below portions of a transcript of a voicemail message left by someone who accessed the untied.com website and obtained an employee’s direct phone number from the “Contact UAL” page:

*How come you’re so – uh...uh – familiar with untied.com but you are unwilling to talk to – uh – a member the public about a matter of great interest to United Airlines regarding litigation.*

*What the hell is wrong with [NAME REDACTED]? And how is that different from what is wrong with United Airlines? And how does that differ with what is wrong from the rogue, renegade, lying US government – the former national – I am sorry – the former constitutional republic and current national security state. What’s the matter [NAME REDACTED]? Traitor got your tongue?*

*[NAME REDACTED] would you have made a great Nazi – or just a good one?*

*Do you remember 80 years ago when the German government and media told everyone whom to hate and blame and once everybody knew that everybody knew that everybody knew whom it was not just socially acceptable but expected to amass hate and blame. How it would seem make perfect sense for that nation’s military to go marauding around the world, invading sovereign nations, starting wars all in the name of protecting and defending the fatherland. Of course, you*



*being female you understand that we're far more progressive this time around. We use the gender-neutral term "homeland" to accomplish the exact same evil thing.*

...

*So maybe that that judge who that said that UAL should – uh – be on the hook for 9/11 isn't – uh – I don't know – part of the same treason party.*

*Untie yourself [NAME REDACTED]. You the one who needs to be untied.*

Considering the content of the message partially reproduced above, you may begin to appreciate the negative impact that your website content has had on the listed United Airlines employees – employees who have no meaningful connections to the criticisms and issues raised on your website. Again, I'm sure this is not your intent, and you therefore will have no concerns with removing all such names and information.

As you will appreciate, the two issues raised above are of significant concern for United Airlines, its customers, and its employees. While there are legal avenues that United Airlines can take to address these concerns, we believe that it would be more productive and beneficial for us both to see if we can reach an agreement to avoid the likelihood of confusion that currently exists with respect to the untied.com website and address the significant concerns raised above with respect to the identified United Airlines employees. In that regard, I invite you to either arrange a call or a face-to-face meeting with me at a mutually convenient location to discuss a resolution of these issues.

Please let me know by September 28, 2012 if you are interested in arranging a call or meeting. If I do not hear from you by that date, I will assume that you do not want to try to work these issues out, and United Airlines will be forced to consider other avenues for resolving these issues.

As a final matter, United Airlines' management has considered the proposal you advanced in an earlier e-mail. You may recall, in that proposal – in response to our initial concerns – you offered your services to United Airlines' management "on a consultancy basis." If you were offering to meet, on a no fee basis, with representatives of United Airlines to discuss thoughts and ideas that you may have to make improvements in its relationships with United Airlines' customers and employees, I would be happy to arrange such a meeting. However, if your proposal was a suggestion that United Airlines retain you as a paid consultant, you surely will understand that we must respectfully decline such an offer. Given the history of your untied.com website, United Airlines does not want to create any appearance or suggestion that it has made payments to stifle the criticisms offered on untied.com, which is simply not United Airlines' practice.

I look forward to talking with you.

September 10, 2012  
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**UNITED**



Sincerely,

A handwritten signature in black ink that reads "Mike H." followed by a long horizontal stroke.

Michael C. Henning

September 10, 2012  
Page 5



bc: Mark Bergsrud  
Elaine Clark  
Christen David  
Rich Fiore  
Nene Foxhall  
Brett Hart  
Rahsaan Johnson  
Megan McCarthy  
Kevin McKenna  
Dave Messing  
Karin Moan  
Scott Moga  
Jessica Rossman  
Nancy Tibbitts  
Ben Vaughn  
Scott Wilson  
Jeff Wittig  
*United Airlines*

**Schedule "D"**

# UNITED



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Houston, Texas 77002  
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October 2, 2012

**VIA E-MAIL**

*Without Prejudice*

Jeremy Cooperstock  
McGill University  
McConnell Engineering Building, Rm 424  
3480 rue University  
Montreal H3A 0E9 Quebec  
CANADA  
[jcooperstock@gmail.com](mailto:jcooperstock@gmail.com)

Re: untied.com

Dear Professor Cooperstock:

Thank you for your e-mail of September 25. I appreciate the information you provided and do hope that our dialogue will assist in resolving the concerns that United Airlines has had with untied.com and the confusion that our United Airlines customers have had upon visiting your site. Unfortunately, I was disheartened that you did not address the two concerns that I mentioned in my September 10 correspondence to you. First, as mentioned in my letter, the design of your untied.com site closely mimics the design of United Airlines' united.com website down to color, font, and location of active links. United Airlines' customers have experienced a great deal of confusion due to the very similar look and feel of your untied.com site and United Airlines' united.com site. Additionally, communications submitted by United Airlines' customers via untied.com are sometimes lost or not directed through the appropriate channels, thus impeding the communication flow between United Airlines and its customers. As a result, we remain concerned about your use of United Airlines' trade dress and copyrighted and trademarked materials on your site.

Second, the names of and contact information for several United Airlines employees are still listed on the "Contact UAL" link of untied.com. As mentioned in my September 10 letter, these employees have received extremely disruptive and harassing messages as a result of your posting of their information on untied.com. These individuals have no connection to the issues discussed on your site but nevertheless are being subject to significant stress and burdens as a result of being listed as contacts on your site. I therefore am again requesting that you remove their names from your site. Moreover, although you requested information pertaining to the government's and United's investigation into the very disturbing message that I referenced in my September 10 letter to you, as I'm sure you can appreciate, I cannot disclose specific information

October 2, 2012  
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at this time in order to preserve the integrity of the investigation and to ensure the safety of our employees.

Finally, I appreciate that you have accepted our offer to meet with us. During the first part of the meeting, we would like to discuss the two issues addressed above in the hopes that we can resolve these very important concerns. In the second part of the meeting, we would be happy to listen to your thoughts and ideas for improving United Airlines' relationships with its customers and employees. Martin Hand, United Airlines' Senior Vice President of Customer Experience, and I will attend the meeting for United Airlines. We are unable to meet with you on October 26, as proposed, but could meet with you in Montreal during the morning of October 31, the afternoon of November 12, or the morning of November 13. Please let me know if any of those dates would work for you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike H.", with a stylized flourish at the end.

Michael C. Henning



